P.721-97

G. R. S. IX-5]

*Previous references.* 189-96.

~~19~~ :

(L.R.)

File No. 154-1895

Serial Nos. 1618.

*Later references.*

P. 110

# GENERAL AND REENUE SECRETARIAT.

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*Serial Nos.* 1618.

Ert B for September 1901.

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SUBJECT.

Appeal of Gyane Gurung Hasabalte Village, Belan Taluk, re Disputed Site in the Patel ship of the Shanabalte Village.

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To. The Dy: Comr Hassan.

SC 18. No. 679 dt 28-9-1901.

P.7-21-97

Ydt: Copy of appeal No: 163795-96 received in connection with the Asst. Comr's order declining to register the Patelship in favour of the Respondent & forwarding the appellant to be registered duly in the Patel list. The Record received with this letter No. 7873-7-21.

Received 14/1/21.

W.D. 2... GPB—20,000—11-6-20

Effigiat in Cypro Sanctæ Hospitalis
Villagæ Beati Lazari, 20 milliaria
ab Urbe Nicosia.

Hassan Dy Commrs
No 67 Dated 3-7-97

No 67 Mis
12/7/97

The practice of receiving loose & informal letters both by Asstt & Dy Commrs seems to be irregular. All such matters should be taken up at once & be taken cognizance of by Deputy Commrs.

Enquiries under s 20 of the Code should be recorded by the Officer conducting the investigation. The informal enquiries now conducted by Amildars & the masaulis & the voluminous & irrelevant papers in a large file of papers is no where authorized & should be discontinued. There is no reason to continue this irregular practice. When claims are filed the provisions of the Stamp Laws have also to be complied with. In this view letters

In order that the Dy Commrs may state the facts & say whether there is any thing to refer the case to a regular suit, Rule 1 under para 3 of Sec XLIII of the Code requires that in the enquiry in respect of matters falling under clause a & b of sub sec 1 shall be formal & in the next paragraph it is laid down that all "cases involving misconduct of village officers" are not cognizable by the Courts. These "suits or claims" are directed to be instituted before the Dy Commr. In para 2 of the same section it is prescribed that the provisions of the limitation Act shall also be held applicable to Revenue Suits.

claimant by regular suit as does not appear to be a correct mode of disposing of the claim, and this procedure may moreover lead to complicated questions of limitation before however final orders are passed in this matter it is desirable to ascertain the views of the Govts who are accordingly requested to submit their observations at an early date.

21.7.97

This may be printed & sent with the Govt of India Resolution

Draft proceedings
21/7/97

Subd Wednesday

Memo.

Re Appeal of Sowrayyadu
& Arachalli, Srikurmam

This appeal is posted to the
5th Sept. for hearing

The records were subd to Secretary
in connection with the general
question relating to the
propriety or otherwise of
referring petns to Register
Courts for the disposal of
Claims to Village Offices
In discussing the general
question, I referred to the
Madras practice based on
Regn VI of 1831 This Regn
was repealed by Act III
of 1895 & the Rules thereunder
(copies put up)

The present procedure as[4] regard Sects &c is laid down in Secns 13-19 & 21-25 of the Act- & rules 23-63 of the Rules under the Act-

The filling up of vacancies in the Offices ("by executive order" as these Govt would have it) is provided for by Secn 10 of the Act-

The changes introduced are.

(1) That- [X] procedure is to be observed in the succession to the Office (Secn 10 (2))

(2) That- women are not eligible for registry (Secn 11(1))

(3) Minors may be registered, the duties being performed by a guardian

(4) Period of probation restricted is 3 years.

Some such Act- adapted to the State seems necessary if "Sects" are to be retained

= The record of the case Leave to be taken by the [illegible] for previous study 27/8/96

X The procedure here is supposed to be regulated by certain Rules which seem to be too elaborate for the Object in view

[5]

[illegible] Govt

[illegible] renewal of question & [illegible] record [illegible] [illegible] 27/8/96

[illegible]

X Sir Lovat recommended by Govt Oriental Rao in 1893 but the rules finally framed were narrowed to a minor point

referred to a regular
suit. In effect the
contention which was
placed upon the by
Court by Somerpada
was not adjudicated
upon - This does not
seem to be proper -
At the time when
Somerpada petitioned
to one had been appointed
as the Inspector &
Officiator - A Stranger
had been in possession
for 12 Yrs & died -
Under the circumstances
was necessary that
the Dy Court should
have decided whether
such possession without
a formal abatt by
the Dy Court constituted
an absolute and
hereditary right so
as to leave with him
a right to be registered
by the right of succession
Somerpada did not
his claim when the
abatt was virtually
vacant & was entitled

ba decision
on merits - As the
Dy Comm has not
recorded any such
decision the record
should be sent back
to him for fresh in-
-vestigation & decision
on merits.

I do not think
whether type basing
such an order on
here & notice to the
Opposite party is necessary.
In fact the case
might be fixed Friday
in due course.

The other aspects
of the appeal could
also be dealt with
by the Secretary -

24.6.98

Sub 2 Secretary
Ly 11/7/95

After [illegible]
[illegible]
27 -

Post for hearing
& issue notice
& after that
Sub 2 Secretary
Ly 20/6/95

The general question which has been raised is very important requires consideration. I should like to have the views of the Secretary on the two points referred to. The distance of Shah Sowcar's petition need not be alleged or what amount. The facts are simple His paternal uncle was Patel & he died His son (minor) did not want it. A Shroff Sotia without a formal appt & supplied the thing for more than 12 years - He died. His minor son was put forward & accepted by the Dy Collr as the successor of Shah Sowcar Dy Collr's correspondence was

## Office-note

Suit-(1) Pet[n] No 3371 of 1895-96
Firm Gaine Gauda & Co. Hosakatti, Belgaum taluk
praying for registry of the firm's name

(2) G.O. No 1407-14 Pet-151 dt 31/7/97
calling for the opinions of the Dy Comm[r] on the procedure to be followed in the disposal of claims to Khoja Effects & the replies received thereto

(1) In G.M. Rec[d] No 1407-14 Pet-151 dt 31/7/97
it was decided that there was no authority for referring the petition as a regular suit and that all claims should be taken cognizance of as soon as they are presented. The opinions of Dy Comm[rs] were however invited before passing final orders

(2) The Dy Comm^r of Bangalore reports that the present practice is to fill up vacancies by means of "executive orders" and to refer applicants who want to dispute an incumbent's title to a regular suit & is of opinion that this practice is correct.

(3) The Dy Comm^r of Kolar reports that questions relating to the appointment of claimants on the death or removal of an occupier are disposed of in a "miscellaneous enquiry" but that when the right of the present holder is contested by a claimant on special grounds he is referred to a regular suit & his claim is made the subject of a formal enquiry. The Dy Comm^r thinks that the "miscellaneous enquiry" by the amildar saves the parties the expense, delay & inconvenience

The bulk of the work is done by actl Comrs and no difficulty seems to have been felt in discharging the transfer of Police duties to Magistrates by amildars

that would be ascertained if the detail of the enquiry was conducted before the Dy Comr himself.

(4) The Dy Comr of Sunkeri still stands on the same footing of a vacancy in appointment office an enquiry is held by the amildar as to who is entitled to succeed to the office & that the Dy Comr makes the appointment on the amildar's report and that if any other Claimant urges his claim he is referred to a regular Suit which according to the Dy Comr means that the requirements of the Stamp Law and of the Civil Proc Code should be complied with. The practice is, in the Dy Comr's opinion, quite regular

(5) The Dy Comm^r of Kentucky
expresses the same opinion
in different words and states
that the ordinary routine
work of filling up a vacancy
and the adjudication of a
disputed right in regard
of that office should not be
mixed up

(6) The Dy Comm^r of Illinois
while generally concurring
in the observations of Govt
wants to know whether a
Sheriff should be compul-
sorily in the case of an undisputed
succession. He is of opinion
that cases of undisputed
succession may be dealt
with by the annual return.

(7) The Dy Comm^r of New York states
that all cases of succession
as well as the appointments
of Surrogates where the Auditor
is disqualified may be
engrossed into by the annual return.

the actual decision resting with the Dy Comm^r while all other Cases may be taken on regular file and disposed of after formal enquiry.

(5) The Dy Comm^r of Labour disposes all questions connected with Village Offices into 5 headings

(1) Petitions from persons praying for Transfer of registry in favour of a son or other relative

(2) Petitions for appointment or continuance of guardians in cases of vacancies.

(3) Petitions relating to the non-payment of maintenance by guardians to the ward.

(4) Cases of removals of village Officers from office entailing forfeiture of

(10) Accepting for the sake of argument the distinction drawn by Mott of the Bycourt's between cases involving succession to the office and those involving the ousting of an incumbent from that office, it is clear that Gowra Gowda (the appellant before Court) did not claim the office as the nearest heir of the deceased patel (Dyave Gowda). It is also clear that he did not want to oust anybody under the maxim "The King never dies" applies to patels.

(11) In any case Gowra Gowda's claim did not come under the 1st class or cases and if the Bycourt have correctly expounded the practice prevailing in these districts, the amildar ought not to have taken cognizance

of the claim.

(12) The classification adopted by the Dr comm^rs has the fatal defect of not including a case like Gowre v Gowda's unless the terms "successor" & "incumbent" are a little strained. (15)

(13) It has the additional disadvantage of perpetuating a double set of proceedings in the same case. To take a concrete illustration: A is a claimant to an office now in the possession of B. A waits till B dies and then claims the office. After a good deal of "miscellaneous enquiry", A is referred to a regular suit. He either brings it or waits till the next vacancy. The latter course is more frequently followed and is in fact the source of the "massing of irrelevant papers in a large file".

(14) Then again even supposing that A is informed that he is not a mukdam, there is nothing to prevent him from

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(14) Then again even supposing that A is informed that he is not a mukdam, there is nothing to prevent him from

(18)

& para 3 of Rule XLIII enables a revenue officer (an Asst Comr or DC (Comr)) to adjudicate upon "suits to set aside or avoid any order relating to such office or service ... which may be passed by Government or any officer duly authorized in that behalf"

But the ruling of Govt in Roc no 1054/Jud 1 41 dt 17/7/94 lays down that "Revenue officers are not competent to entertain suits against GOI or its officers & pass decrees thereon"

It is difficult to reconcile this ruling with para 3 of Rule XLIII

(V) Under the case-law that grew up under Rule XLIII, the view was held that a "Miscellaneous order" was an ad-interim order, that

only in a regular suit can a claim to a village office be properly decided & that a miscellaneous order though passed by Govt was no bar to a regular suit being brought in an ordl Court.

(19)

However in A.S. No 10 of 1894-95 Venkatrao declared that "the plaintiff has no right to bring a suit in a case like this against persons who have been put in possession of the office under the orders of Govt"

(18) Whatever be the precise meaning of paras 3 & 4 of Rule XLIII, it appears that the present practice of referring petitioners to a regular suit seems to be the remnant of an old order of things

In Go. No 10742-8 dt 25/11/77 "the Chief Comm considers that the office (Shanbhog) should

* Now file is put up

The office note gives a resu of the case-law on the subject. Annexure from this file is put up.

(5) contentious claims & hereditary
suit.

"Here the practice in this
District is to dispose of the
first four questions on ancillary
reports while cases coming
under the fifth heading are
disposed of as regular suits.
The Dy Comm^r is of opinion
that the matters in issue
both the letter & spirit of
the Land Rev Rules and that
no change is called for"

(9) The Dy Comm^r of Kanara while
fully agreeing on the principles
of Govt^t Circ^r suggests that in cases
of succession the court fees
should be the same as on
ordinary petitions while the
present court fees of 10 Rs
may be levied in cases
where the claimant desires
to oust an incumbent

x It may be noted here
that in Madras the
court fees on plaints
& memoranda of
appeal declining to
village offices are
the same as on
ordinary petitions
appeals (S.O No
178 Board's Standing
orders)

bringing a "regular suit" as
soon as the file is filed ub.

(15) The rules of the Dy commr
of Kadur call for some notice
the clause "questions relating
to the removal of village
officers" among the "claims"
specified in clause (a) of
Sec^n 221 of the L Rode.
But these questions, it
should seem, are regulated
by Sec^ns 31-35 of the L R
code and in any case
are not claims
As regards "questions relating
to non-payment of
maintenance by guru[illegible]
to chelas", in which [illegible]
ought not to arise, as
the remuneration
payable solely to
the officiator

(29)

x They say. "The idea was at one time entertained by the committee of introducing the greater part of the Bombay Hereditary offices Act into this Regulation but x ... knowing that the Act would require very careful study they have determined to recommend its introduction later on as a separate Act"

(The papers relating to the Land Rev Code Bill are about to be printed & are not put up).

Since the above was written, it is found that the Bombay Act III of 1874 was passed & given up in 1894 as the Govt found that the Act was a most complicated one

There is a file in the Rev Secretariat on this subject

10/10/95

or

(2) Whether, as contemplated by the Select Committee on the Rev Code Bill, the proce in such cases may be assimilated to that prevailing in Bombay & expounded in Bombay Act III of 1874 under this Act there is no necessity for "suits"

There are radical differences between a petition and a plaint in a suit of which the following are the essential

(1) "A plaint has to be presente in person to the court while a petition need not be so presented

(2) The court fees on plaints are calculated under article 17 VI of schedule II of Court Fees Act while those on petitions are calculated under 16 of Schedule II

(3) Costs are awarded in "suits" to the successful party but not in the case of petitions

(4) A plaint has to be drawn up in a prescribed form while a petition may not is drawn up carelessly.

(23)

2) In Madras the court-fees in suits for the possession of the emoluments of an office or of succession to the office itself have been reduced under Sec[n] 35 of the Court-fees Act to the same scale as on petitions (para 17 of S. O no 178 Board of Revenue)

The following are also some other features peculiar to the Madras Rev law in the disposal of claims to village offices.

(1) The plaintiff must generally wait till a vacancy occurs before he can sue (Para 8 of SB. no 178)

(2). Suits for declaratory decrees are not maintainable (Para 9 of S O no 178)

(3) Suits are not governed by the provisions of the Limitation Act (under Sec[n] 2 the Act) but appeals are governed by the ordinary law

† This was the law in 1898. For a correct statement of the present Madras law see the Sch III of 19[illegible] & the rules there (put up)

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(26)

(3) All proceedings under the Act are to be conducted by the Collector (including an Assistant or Deputy in charge of a taluk) except in the case of proceedings relating to inferior village servants (corresponding to menials, Toties & Talavars) which may be conducted by Mamlatdars (Secs 75 & other Secs)

(4) A register shall be kept by the Collector showing among other things:

(a) The names of the heads of families of the representative Watandars

(b) Whether the service is performed by the representative Watandar or otherwise

(c) The proportional shares the Watan possessed by each head of family

(d) The number of officials required to perform the duties

Such register to be corrected or added to on the occasion of any change made in accordance with the Act (Secs 67 & 68)

5) When any representative Watandar dies, the Patel & Kulkarni (Shanbog) should report the fact to the Collector who should, if satisfied of the same, register the name of the eldest son or other nearest heir.

(87)

Primogeniture

(6) Notice of adoption of an heir by the representative Watandar or his widow should be given to the Collector within three months failing which it will not be recognized by the Collector without production of a certificate of heirship (Secs 34 & 35)

This simple provision will save the collector a good deal of trouble in investigating the validity of adoptions

(7) The collector shall determine the custom of the Watan as to service & what persons shall be recognized as representative Watandars & to register their name.

(8) There are also some provisions providing the procedure to be followed in cases of alienation of service Inams whether by act of parties or by civil Court Sales. In this point the revenue law here does not provide a certain procedure. The provisions regarding Mortgage by notable (Secs 38-41) may not be available here.

(8) There is only one appeal from orders passed under the Act (Sec 2)

* Secs 6-13 of the Act

× In some recent cases, the Govt has to settle the matter of by threatening the whole forfeiture of such

MY 29/4/25

This is the law as laid down in the * Privy Council Rulings and any exception in favour of Parsis needs to be clearly provided. The Rule seems to be of doubtful legality. The modification here has to be justified under clause (n) of Sec. 233 of the Z R Code but the Legal Remembrancer of Bombay was of opinion that "no new powers or obligations could be created by rules" under this clause.

(16) It would conduce to greater clearness if the inconsistency & impracticability of Rule XLIII 3 & 4 as regards the disposal of the matters specified in clauses b to i of Sec. 221 are realised. As this is a separate matter, a separate note showing the difficulties in understanding them effectively is submitted.

But as regards the matters specified in clause (a) of Sec. 221, this clause includes -

* It may perhaps be contended that the term "Parsi" does not include a person who only by birth has become a Parsi but under Bombay Act III of 1874 but under Bombay Act III of 1874 Parsi includes "a deputy or substitute" (Sec. 4) But a deputy is always appointed by a "Mukhtiardar" (Sec. 573) & be a Mukhtiardar in the Deccan.

Page 27 Rev Manual.

1 (brother of the last holder)

be registered in the name of the widow (of the last holder) and Sadasivaraya referred to the proper Court to establish any claims thereto".

The right to bring a suit was limited by [x] G.O. no. 6006 R 14 dated 18/9/77 which ruled that questions relating to the reversion of Shanbhog charges should not form the subject of suit in Revenue Courts but should be decided on public grounds.

[x] Page 270. R.M.

It is a curious fact that though the Commissioner's [x] circular no 522-3 dated 8/6/64 was rejected by the [x] Land Revenue Code, the claim practically to Revenue cases into

(a) Regular suits
(b) Miscellaneous proceedings
(c) Orders & reports
(d) Petitions

Pages 228-258 R.M. Vide Schedule A

(30)

already provided for by the Code or other law.

This, para 3 coupled with para 4 of Rule XLIII lays down that the claims specified in clause (c) of Sec^n 221 of the Code — claims connected with proceedings for realization of revenue &c — should be brought forward in the form of "summary suits" in the assistant's court or by commr's court according to the valuation of the suit

But the procedure in such matters is laid down in chap XI of the Land Rev Code: If anybody wants to get a revenue sale cancelled, an application should be made to the Dy commr within 30 days of sale & if he is dissatisfied with the Dy commr's order he appeals to the

(31)

It is nowhere laid down in chap XI of the code that the D/ comm's enquiry into applications to set aside sale should be "summary" As a matter of fact, these Sales are mostly (not always) confirmed or cancelled on the reports of amins. The question then arises what is the exact intention of paras 3 & 4 of Rule XLIII as regards such matters? At any rate no "suit" has hitherto been brought to set aside a sale

=

As regards the claims specified in clause (d) of Sec$^{n}$ 221, their disposal is regulated by Secs 67-70; Sec$^{n}$ 98, & Sec$^{n}$ 118. & the corresponding rules under the Bar Rule XXV of the 2 R Rules. which lays down a summary enquiry in cases of disputed succession. There is nothing

(29)

x They say. "The idea was at one time entertained by the committee of introducing the greater part of the Bombay Hereditary offices Act into this Regulation but x... knowing that the Act would require very careful study they have determined to recommend its introduction later on as a separate Act"

(The papers relating to the Land Rev Code Bill are about to be printed & are not put up).

Since the above was written, it is found that the Bombay Act III of 1874 was passed & given up in 1894 as the result of the Act was found that the Act was a most complicated one There is a file in the Rev Secretariat on this subject

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or

(2) Whether, as contemplated by the Select Committee on the Rev Code Bill, the procedure in such cases may be assimilated to that prevailing in Bombay & expounded in Bombay Act III of 1874 under this Act there is no necessity for "suits"

There are radical differences between a petition and a plaint in a suit of which the following are the essential

(1) "A plaint has to be presented in person to the court while a petition need not be so presented

(2) The court fees on plaints are calculated under article 17 VI of schedule II of Court Fees Act while those on petitions are calculated under 16 of Schedule II

(3) Costs are awarded in "suits" to the successful party but not in the case of petitions

(4) A plaint has to be drawn up in a prescribed form while a petition may not is drawn up carelessly.

(23)

2) In Madras the court-fees in suits for the possession of the emoluments of an office or of succession to the office itself have been reduced under Sec[n] 35 of the Court-fees Act to the same scale as on petitions (para 17 of S. O no 178 Board of Revenue)

The following are also some other features peculiar to the Madras Rev law in the disposal of claims to village offices.

(1) The plaintiff must generally wait till a vacancy occurs before he can sue (Para 8 of SB. no 178)

(2). Suits for declaratory decrees are not maintainable (Para 9 of S O no 178)

(3) Suits are not governed by the provisions of the Limitation Act (under Sec[n] 2 the Act) but appeals are governed by the ordinary law

† This was the law in 1898. For a correct statement of the present Madras law see the Sch III of 19[illegible] & the rules there (put up)

as laid down in that circular is still adhered to in the quarterly returns of Revenue proceedings submitted by Dy Commrs to the Dewan's Office.

Sir James Gordon does not seem to have looked with favour on "this anomalous Jurisdiction of Revenue officers in the so-called Revenue Suits" (vide para 8 of his minute of 24/2/78 Page 68 14 years Blue-book 1881 No 1) but the effect of para 4 of Rule XLIII is to authorize the institution of Suits where there is no necessity for them.

(19) The questions for decision are

(1) Whether the present practice of deciding claims & mulkhs in regular Suits may be retained with certain modifications as regards Court-Fees on plaints in such cases & as regards the class of cases in which plaints may should be filed.

The reduction of Court Fees
in ~~Madras~~ Suits for
Succession to a village office
is recommended by the
Board. Hindus who would
however maintain the present
scale in suits for the existing
of an incumbent

If "suits" are to be retained
there seems to be no reason
why the practice should be
dissimilar in the two cases.

The other features of the
Madras Rev. law are not
such as can be readily
assimilated here.

(21) The idea of a suit for the
possession of a village office
involves the supposition
that Govt is perfectly
unconcerned as to who is
the officiator and that the
only question involved
is the usurpation of a

(26)

(3) All proceedings under the Act are to be conducted by the Collector (including an Assistant or Deputy in charge of a taluk) except in the case of proceedings relating to inferior village servants (corresponding to menials, Toties & Talavars) which may be conducted by Mamlatdars (Secs 75 & other Secs)

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(d) The number of officials required to perform the duties

Such register to be corrected or added to on the occasion of any change made in accordance with the Act (Secs 67 & 68)

5) When any representative Watandar dies, the Patel & Kulkarni (Shanbog) should report the fact to the Collector who should, if satisfied of the same, register the name of the eldest son or other nearest heir.

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This simple provision will save the collector a good deal of trouble in investigating the validity of adoptions

(7) The collector shall determine the custom of the Watan as to service & what persons shall be recognized as representative Watandars & to register their name.

(8) There are also some provisions providing the procedure to be followed in cases of alienation of service Inams whether by act of parties or by civil Court Sales. In this point the revenue law here does not provide a certain procedure. The provisions regarding Mortgage by notable (Secs 38-41) may not be available here.

(8) There is only one appeal from orders passed under the Act (Sec 2)

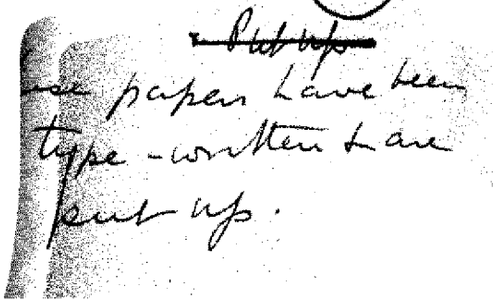
* Secs 6-13 of the Act

× In some recent cases, the Govt has to settle the matter of by threatening the whole forfeiture of such

MY 29/4/25

(38)

~~Abstract~~




Since working the above, R
350 of 1892-93 relating
the return of 50 nos 10267-75
R1053
3/1/94 has been receive
looked into.
In commenting on Mr Rhenius
Rao's note of 4/6/93, Col
Grant says (in his letter of
31/7/93 & 3/4/94).

"I may remark that the
Dewan is well aware of
the advisability of framing
a Hereditary Offices Act
or Regn for Mysore
It is far better to do what
is necessary by means of an
exhaustive regulation once
for all than to introduce
rules from time to time
Bombay Act III of 1874
which answers well with

give us a very good line"

× × × — —

"The Potya Rule × — × — (39)

are deficient in any rule
or instructions for the
determination and registration
of representative hukdars
the duties of these offices, period
of service, appointment of
deputies & so on"

This file also shows that the
question of taluka was
considered & was given up
as unsuitable

The interdependence of the
principles regulating the
succession to hereditary offices
& the procedure relating thereto,
is illustrated by the following
extract from Mr Bhimbhai Rao's
note

" If the × above proposals are
sanctioned, no limit will be put
ejecting a man in office so
long as he is a hukdar, but limit
will only be put to the registration
his name as a hukdar so that
he may be eligible for appointment

× viz that the Govt shall
the liberty to select
one of the hukdars
the Mamlatdar

Before the Government of Mysore.

Appeal No. 163 of 1895-96

Appellant.

Vs.

Respondent.

Gaure Gauda son of Ere Gauda
Hosahalli Belur Taluk

Dyave Gauda

Subject:- Claim to the Patel office of Hosahalli, Belur Taluk.

Posted 5th Sept 96

Rec'd 7th Oct 96

27/8/96

9597

Is the Patel
the Varnam
of the letter
of 3 Feb 1897 (Ans 4).
was the order
of the appellate Court
to a regular suit
or a petition under
the law more than 12 yrs ago?

Is this Patel office not a regular Watan
that is the law ? order
a proper statement of facts & proper decree
&c. the Revenue officer to make the demarcation
of the land. The right to a share of the
land, dismissing the petition of Gaure Gauda
& purchased upon an ex parte order sent up by the Collector
for the — The Revenue Officer
to the parties & a Civil 28 8 98
suit of claims thereby. The another regular proper
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Before the Government of Mysore.

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Vs.

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Inrali rjhl

~~Their opinion~~ Having found that such an idea encouraged litigation, the Bombay Govt passed Act III of 1874 regulating the procedure in such cases. (Mde Survey & Settlement Comm'r's letter printed in Go no 6006/R 14 of 18/9/77).

(22) The following is a precis of its main provisions in procedure.

(1). All proceedings under the Act are "judicial proceedings" (sec 72).

(2) All orders under the Act adjusting the remuneration of officiators, determining the custom of the Watan as to service and where persons should be registered as heads of families or representative Hakkdars, or determining the periods of service shall be passed after an investigation in writing & after affording an opportunity for the hearing of claims & the production of evidence (sec 73).

Office-note

Subject - To show that paras 3 & 4 ~~of~~ Rule XLIII of the LR Rules are (a) unauthorised, (b) inconsistent with the other provisions of the code & Rules, (c) impracticable & (d) opposed to the express rulings of Govt

(The x papers relating to the preparation of these Rules have been sent for but have not been received but the papers relating to the formation of the land tax code have been referred to

Para 4 of Rule XLIII lays down that "all cases involving minute check of village offices" are not cognizable by Civil Courts. This provision of

x The papers are stated to be in S.R.O. The first draft of the LR Rules (which is found in the library) is considerably different from the Rules as finally passed

11/7/98

(30)

already provided for by the Code or other law.

This, para 3 coupled with para 4 of Rule XLIII lays down that the claims specified in clause (c) of Sec^n 221 of the Code — claims connected with proceedings for realization of revenue &c — should be brought forward in the form of "summary suits" in the assistant's court or by commr's court according to the valuation of the suit

But the procedure in such matters is laid down in chap XI of the Land Rev Code: If anybody wants to get a revenue sale cancelled, an application should be made to the Dy commr within 30 days of sale & if he is dissatisfied with the Dy commr's order he appeals to the

(31)

It is nowhere laid down in chap XI of the code that the D/ comm's enquiry into applications to set aside sale should be "summary" As a matter of fact, these Sales are mostly (not always) confirmed or cancelled on the reports of amins. The question then arises what is the exact intention of paras 3 & 4 of Rule XLIII as regards such matters? At any rate no "suit" has hitherto been brought to set aside a sale

=

As regards the claims specified in clause (d) of Sec$^{n}$ 221, their disposal is regulated by Secs 67-70; Sec$^{n}$ 98, & Sec$^{n}$ 118. & the corresponding rules under the Bar Rule XXV of the 2 R Rules. which lays down a summary enquiry in cases of disputed succession. There is nothing

hukdars come within
the class of cases.
It nowhere draws a
distinction - drawn by
the Ds Comrs - between
cases involving Succession
to the office on the death
or removal of the officiator
& those involving the
ousting of an incumbent
from the office
Again "all cases involving
Grants & charitable
endowments" are not
cognizable by the amildars.
Besides the vagueness of
the rule, it is notorious
that such cases are reported
on by amildars.

= Perhaps the most glaring
anomaly is para 3 of Rule
XLIII of the L R Rules which
lays down the form of
enquiry into matters
the disposal of which is

in the other Sections & rules
to show that "a summary
enquiry" into those matters
should be held.
Yet not only "summary
enquiry" but even "suits"
are contemplated in such
matters by paras 3 & 4 of
Rule XXIII

= As regards claims specified
in clause (c) of Sec^n 221, their
adjudication is regulated by
Sec^ns 122-3 & the IX^th rules under
them. If it was meant
that the enquiry should be
"formal" — as para 3 of Rule XXIII
lays down — the proper place
to indicate it was Rule
XXIX

= As regards most of the claims
specified in clause (c) of
Sec^n 221, they were brought
down by the Assessor
Dept^t & the only way to
settle the decision of their
Dept^t cancelled is by [illegible]

× Rule XXIX

I invoke the Assessment Rules having
the force of Law

If Sec 17 para 4 of Rule XLIII is to be followed, a suit will have to be brought in an ASL Court or by Comm'rs Court ("Inams" are not within the Jurisdiction of ancl Courts)

The matters specified in clause (g) of Sec 221 are dealt with in Secs 126-128 & Secs 130-133 of the Land Rev Code. In the last Sec a "Summary enquiry" is laid down for enquiries under that Sec while Sec 126 (para 2) lays down a "formal enquiry" for enquiries under that Sec Next para 3 of Rule XLIII lumps them all together & lays down a "formal enquiry"

As regards the matters specified in clause (b) of Sec 221 of the L R Code) there appears at present to be nothing in the Code or other Rules to regulate their disposal

but in Bombay rules have
been framed under Sec^n 107
of the Bombay Land Rev Act
for the disposal of objections
to the enhancement of assessment
during the progress of the
settlement

In the present instance,
when there was a general
complaint of excessive
assessment from the
ryots of Sapar taluk the
Collr disposed of
the complaint after
calling for & considering
a report from the commissioner.
Similar procedure was
adopted in the redistribution
of the Malnad circles
assessment. In neither
case was a suit
filed in the amildar's
or Collr's Court
which is apparently

x corresponding Sections
115 & 116 of the Mysore
Land Rev Code

the procedure prescribed by paras 3 & 4 of Rule XLIII.

=

Clause (a) of Sec^n 221 includes "Suits to set-aside or avoid any order relating to any such office or service" & para 3 of Rule XLIII authorizes a revenue officer to decide such suits

Again, clause (b) includes "claims against Govt to hold land wholly or partially free from payment of land revenue" & paras 3 & 4 enable the "Suits" or "claims" in such cases to be instituted in our Art. Comm^rs or D. Comm^rs Court.

But when one Swamy Rao brought a suit in a Comm^rs Court for a declaration that a certain piece of land was Inam, the Govt declared that "Revenue

officers are not competent to
entertain suit against
Govt or its officers and
pass decrees thereon"
It is difficult to reconcile
this ruling with paras 3 &
4 of Rule XXIII

24/4/98

This precedent
with regard the
Asst Secy's office
note in foregoing
case cited
24.6.98

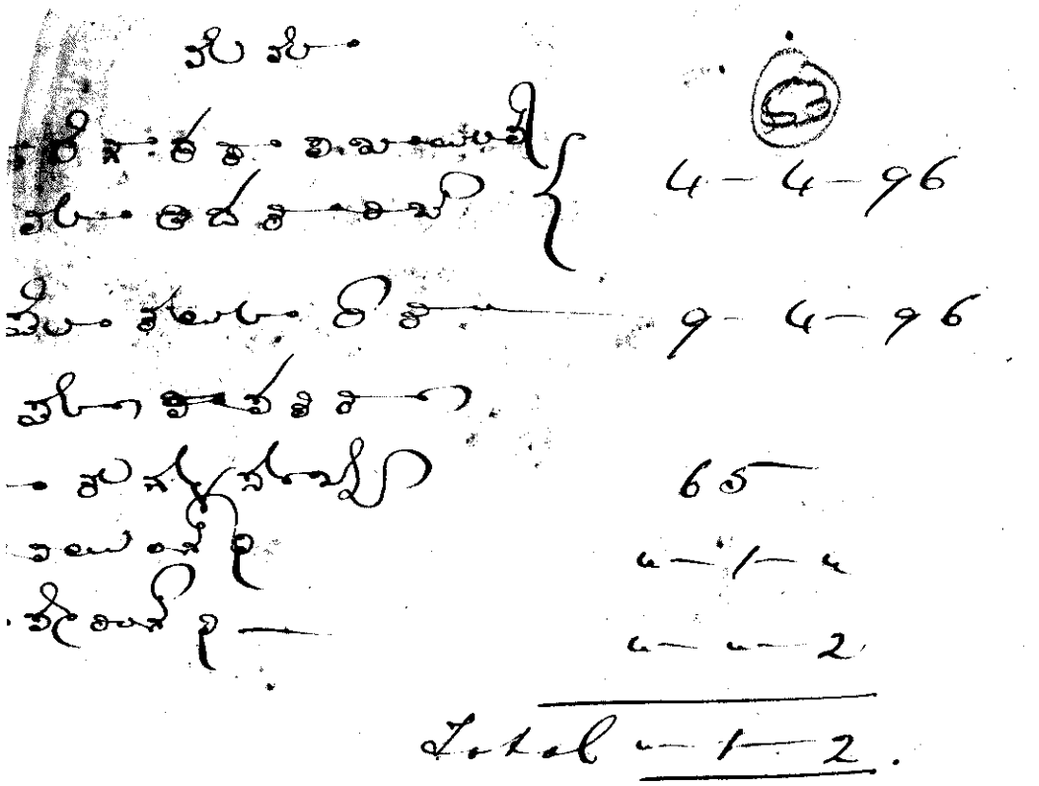
It may not be out of
place to mention that
in Bombay no rules have
been framed by Govt under
the Rev Jurisdiction Act —
which has been incorporated
with the Mysore & R Code as
Chap XIV — No such rules

(2)

No 460
22/1

To
The Deputy Commissioner
Bellary

Compared with "Copy"



4-4-96

9-4-96

65

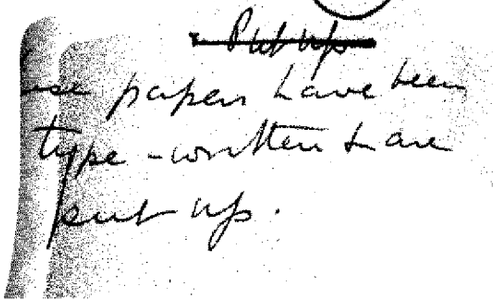
4-1-4

4-4-2

Total — 1-2.

(38)

~~Abstract~~




Since working the above, R
350 of 1892-93 relating
the return of 50 nos 10267-75
R1053
3/1/94 has been receive
looked into.
In commenting on Mr Rhenius
Rao's note of 4/6/93, Col
Grant says (in his letter of
31/7/93 & 3/4/94).

"I may remark that the
Dewan is well aware of
the advisability of framing
a Hereditary Offices Act
or Regn for Mysore
It is far better to do what
is necessary by means of an
exhaustive regulation once
for all than to introduce
rules from time to time
Bombay Act III of 1874
which answers well with

Gen. Serial No. 30.]

1897

From

The Deputy Commissioner
Kaira District

To

The Chief Secretary to the
Government ~~Dewan~~ of Mysore.
General and Revenue Departments
Bangalore.

Dated 30
Despatched
Received } July 1897

Enclosures No. Petn & Rt

General No.

Dept No. 7

In reply to No L/2123 dated 12th June 1897.

SUBJECT.

Submitting report on the Petition from Gowdegowda of Hosahalli village, Belur Taluk, appealing against Deputy Commissioner's order refusing the petitioner to a regular suit in the matter of his claim to the Patelki of the said village &c

References (to be entered only in the Dewan's Office.)

123
Pet 10.

Petn

5.7.97

No. 1
Dec

(56)

Deputy Commissioner
Hassan Dis

Daled. Hassan. 3d. July

From,

The Dy. Commissioner
Hassan Distr

To.

The Secretary to
Government of My
General and Rev: De
Bang

Sir,

With reference to
memo No: P/2123 Daled 12th June
forwarding for submission
entire proceedings together w
full report connected with
-peal petition Nos: 3371 an
Daled 25th March 1896, rec
from Gowdegowda of Ha
Village, appealing against
order of the Deputy Commis

Hass

give us a very good line"

× × × — —

"The Potya Rule × — × — (39)

are deficient in any rule
or instructions for the
determination and registration
of representative hukdars
the duties of these offices, period
of service, appointment of
deputies & so on"

This file also shows that the
question of taluka was
considered & was given up
as unsuitable

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principles regulating the
succession to hereditary offices
& the procedure relating thereto,
is illustrated by the following
extract from Mr Bhimbhai Rao's
note

" If the × above proposals are
sanctioned, no limit will be put
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will only be put to the registration
his name as a hukdar so that
he may be eligible for appointment

× viz that the Govt shall
the liberty to select
one of the hukdars
the Mamlatdar

Before the Government of Mysore.

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Dyave Gauda

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Posted 5th Sept 96

Rec'd 7th Oct 96

27/8/96

9597

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or a petition under
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Is this Patel office not a regular Watan
that is the law ? order
a proper statement of facts & proper decree
&c. the Revenue officer to make the demarcation
of the land. The right to a share of the
land, dismissing the petition of Gaure Gauda
& purchased upon an ex parte order sent up by the Collector
for the — The Revenue Officer
to the parties & a Civil 28 8 98
suit of claims thereby. The another regular proper
on the basis of the Watan act the enquiry before Revenue must

finding a place in "The General
Rules in force in the Bombay Rep 284"
or in the annotated edition
of the Bombay code by
Mr Setalvad.
The only rulings under the
Rep provisions Act have
been passed by the High Court-
the act being primarily
addressed to the civil courts

11/7/95

when a vacancy occurs"

But the final order as now
to sort was narrowed down
to the question regarding the
basis of the patels of
absorbed villages.

In discussing therefore the
procedure to be adopted
in the disposal of claims
to village offices, it is hardly
possible to avoid reference
to the principles

11/7/45

40

11-9-98

Sub Lt [illegible] Connaught

Appeal re 163 of 1893 – 94

Appellant has appealed against the punishment & the punishment has expired from attending

These pets were received on the 3rd were sent in till 5 day

[illegible] the punishment may be granted

6/9/98.

R² 4.PM 7-9-98

I am inclined to grant – but under guarantee [illegible] in presence of [illegible]

8.9.98

Sub Lt [illegible] Connaught

10/9/98 Reporting R² 9/9/98

Note. The cases the order of disposal will be set aside and the appeal restored to [illegible]

10-9-98

Note

[illegible] 29/8/98

[illegible] after noting in the Reg² [illegible] Thus notices issued the Sub² to attend for recruits [illegible] has nil on the general question

12/9/98

Sub Lt [illegible]

27/9 [illegible]

47

# Before the Government of Mysore.

Appeal No. 163 of 1895-96.

| Appellant. | Respondent. |
| --- | --- |
| Gaure Gauda & | Gaure Gauda |

5/9/95
Appt not present
Summons for default
but on a petition the appeal
was taken on the file
Adjd to 10/10/95 By

Post for
hearing
By order

5/8/96

10/10/95
Appt absent applies for
adjournment
Adjd to 5th Dec
By 10/10/95

1.2

15 32

Rec'd Temporary Gen

Secy's Secy wish
of 27 & 9c
them each what
has been done
from Instruct to C.

Ent'd 61 St C.V. 31/10/1902.

The Secy once discussed with me the subject but latterly during the revision of the L R Rules by the 2nd C.V. Standards & await the revision

Draft revised rules the rules (para 34 of Rules I. II.) look objection as "vague, impracticable & oppressive & the expression "things of Govt" have been omitted by 1/11/02

Rec'd 6.45 pm 1.11.02 13/4/01 229

Before me

11/9/1981

Before the Government of Mysore.

Appeal No. 163 of 95-96

Appellant. Vs. Respondent.

Gauri gauda
son of Seregauda
Hosaliali Belur Taluq. } Vs { Byre gauda

Claim to the office of Patel
of Hosaliali village, Belur Taluq

Post of the 1st Instl.

Appellant
6/9/0 Gauri gauda. in person
& by Mr Suryaji. Respt
Byregowda in person.

Recd 7.IX.01.

First decide whether
suit to declare
order rejecting the Petn in
favor of Respt. requiring
appellant to regular suit
12th Sept 1901 Mysore

Central Jail Press, Bangalore,—7-7-99.—302.

45

No. 3871 of 1896

Name of Petitioner, [illegible]

Village, [illegible]

Taluk, Belur

District, Hassan

Date of Arzi, 24-3-96

Date of Receipt, 31-3-96

Date of Disposal,

No. of Enclosure, 1

ABSTRACT.

[illegible]

ONE RUPEE ONE RUPEE

Photograph filed

PETITION DEPARTMENT
3371 R

ಸಂಖ್ಯೆ

ಸಲ್ಲಿಸಿದ್ದಾನೆ

ಕೋರ್ಟ್ ಫೀ ಸ್ಟಾಂಪ್ ಪೇಪರ್ ಮೇಲೆ ಬರೆಯಬೇಕು

Section XLIII of Land Revenue Rules requires that the "enquiry in respect of matters falling under clauses a, e, f & g shall be formal", and in the next paragraphs, it is laid down that all "cases involving ~~+~~ Miras Hak of village Officers" are not cognizable by the Amildars. These suits or claims are directed to be instituted before the Dy Commr. In para 2 of the same section, it is prescribed that "the provisions of the Limitation Act shall also be held applicable to revenue suits".

(68)

2. The practice of receiving loose and informal petitions both by Amildars and Dy Commrs seems to be irregular. All such matters when brought forward in the form of claims require at once to be taken cognizance of by Dy Commrs. In a formal enquiry, the evidence has, under Sec: 201 of the Code to be recorded by the Officer

conducting the investigation.
The informal enquiry now
conducted by Aitchisons and
the massing together of unnecessary
and irrelevant papers in a
large file of papers is no-where
authorized and there is no
reason to continue this irre-
gular practice. When claims
are thus filed, the provisions
of the Stamp Laws have also
to be complied with. In this view
referring a claimant to a
regular suit does not appear
to be a correct mode of dis-
posing of the claim, and this
proceeding may moreover
lead to complicated questions
of limitation. Before however
final orders are passed in this
matter, it is desirable to
ascertain the views of Dy Comrs
who are accordingly requested
to submit their observations
at an early date

(69)

Redraft
Cz

for Secretary.

References

(2) 47

1896

No. 3845 A 1896-97

Name of Petitioner, Gowdagonda son of Eregonda Patel

Village, Hosahalli village

Taluk, Belur

District, Hassan

Date of Arzi,

Date of Receipt, 29-5-96

Date of Disposal,

No. of Enclosure, one

ABSTRACT.

In the reference to order No. 3371 dated 13th April 1896 produces a copy of the Hassan deputy Comrs. order appealed against regarding the Patelship of the above village.

Translation of the order appealed against

In order to the Shiddar, Belur Taluk the Patelship should be registered in the name of minor Gowdagonda eldest son of the late Patel Eregonda Patel, and the work should be conducted by Eregonda as manager to the minor according to the wishes of the minor's mother

Caveat received - and ask the Asstt Commr which of a question forwarded when the complainants in the case under reference should be registered as Patel

Draft 1/6/96

9/6/96

10/6/96

1/6/96 3371/95-96 Asstt

Nanjamma — 46.

Gowdaiah's appeal should be decided in regular Suit. He may bring a regular suit for the Patel's office. His appeal cannot be disposed of under the Code. The petitioner is informed accordingly."

1/6/56

(6)

Gen. 31]

1897 1951 1857

From The Dy Commissr Bayfordshire

To The Secretary to the Govt of Mysore Rev & Genl Depts

Dated 9th
Despatched
Received } September

General No.
No. 342

Enclosure No.

Govt: order No 1407-14
Rev. 181
dy- 31st July 1897.

Expressing opinion in the matter of reopening applications for hereditary village offices —

Petition 2

Reps put up 1/9

AR 13/9.

Awaited reports from the Dy Commr. 14/9/97 BK

Thereon MM 13/9/97

(6)

(73) Bangalore District.

Dy Commissioner's Office.

D. No. 342. Bangalore 9th September/97.

To,

The Secretary to the Government
of Mysore,
Genl & Rev Departments.

Sir,

With reference to Government order No. 1407-14 Rev: 181 of the 31st July 1897, calling for opinion in the matter of reserving applicants for hereditary village offices, I beg to state that when an office becomes vacant and the vacancy has to be filled up, a successor is chosen from among the nearest heirs of the previous holder of the office. In such cases, applications are received and disposed of by means of executive orders. But when a party lays claim to an office, afresh, in preference to its holder, it is only then that the claimant is told to file a regular suit. This procedure is, I think, correct. I have the honor to be,

Sir,

Your Most Obedient Servant,

[illegible]

Dy Commissioner.

(2)

No 460
22/1

To
The Deputy Commissioner
Bellary

Compared with "Copy"

47

3845

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. NO. 3845-R
DATE 29/5/34

Pet 2123 for 4 S.B. draft (S.)

13-6-96

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

L.A. 124-95-3.

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

Nos 3371 3845 dated 28-3-96

received at the Dewan's Office from Gowda, gowda Sole of the gowda, of Hosahalli village, Belur Tk appealing against the order of the Deputy Comr, Hassan dt referring the petitioner to a regular suit to establish his claim to the Patel of Hosahalli village.

is forwarded, together with its two enclosures, to the Deputy Commissioner of the Hassan District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

3. The petitions with their enclosures should be returned.

(2) The Dy Comr is requested to state whether, if a succession right is brought forward when the succession is open and under consideration the same should not be enquired into and decided in the applicant referred to a regular suit.

BANGALORE, 12-6-1896 / 13

Chief Secretary.

By order,

draft

12/6

for Secretary

M.G.C.P.B.—25-4-95—1,000

11/6/96

Hassan District, in re the Potéli of the said village, I have the honor to submit, herewith, the entire proceedings connected with the case, and to report that one Ramaliégowda was the registered Potél of Hosahalli village, (vide extract from Banabaluti Register on paper 1 & Vernacular file). He is reported to have died about 1874 and his only son, who was then living, having refused to be Potél, one Dyarégowda, a native of the same village, who is in no way related to him, was since then doing the duties of Potél. There seems to be no order on this subject. Vide Amildar's report No. 175 dated 22nd Sept. 1879.

175
179

12.5
179 Dated 3rd September 1895. In
the year 1880, the Aminidar re-
-commended that Potigé might
be paid to the said Dzaiéowda
and the same was sanctioned
by Assistant Commissioner Mr. Chelm-
-sford in his order Dated 17th
September 1880 (vide extract from
Statement of Potigé payments on
P.1 of Vernacular File). The said —
Dzaiéowda died on 14th September
1893. and his widow Naijamma
stated that she had three minor
sons and prayed that the Potéli
may be registered in the name
of her eldest son Dzaiéowda,
who was then ten years old,
Ecaéowda the second son of the
1st younger brother of Hommaki
— Gowda (above mentioned) being
appointed

appointed Gumasta (vide her
statement on p. 5 of Vernacular
File). Complainant Gowrigowda
the eldest son of the 1st Younger
brother of Hanumighowda (vide
genealogical table on p. 14) ~~[illegible]~~
objected to the above proposal
alleging that he had left his
village for maluad during the
famine of 1876-77 to procure a
living and that during his ab-
sence Dyavigowda, above spoken
of was appointed Patél. He
begged that he being the Huldar
might be appointed Patel. But
the Huldar recommended the
grant of Nanjamma's prayer.
Dr. Ramanujiengar, Extra
Assistant Commissioner, submitted
the record for orders of the

Deputy

Deputy Commissioner (vide yadi
No. 913 Dated 30th June 1895 on
p. 24 of Cemaendar File). The
Deputy Commissioner Mr. Krishna-
-samiah passed the following
order: —

"Deceased Dyaniegowda's son
"Dyaniegowda be registered as
"Patel and Eeregowda appointed
"Gumasta as desired by
"Nanjamma. Goviegowda
"be referred to regular suit"

I have the honorable,
Sir,
Your most obedient servant,

[signature]
Asst Deputy Commissioner
Hassan District

2 (21)

for the vacant appointment. Further than this, no formal or informal enquiry is held by the Amildar into the merits of the claims put forward and no evidence is recorded in respect of them. When petitions are presented to the Amildar or Deputy Commissioner by any of these claimants other than the man who is nominated to the vacancy, they are referred to a regular suit, which means that the requirements of the Stamp Law and of the Civil Procedure Code in regard to plaint petitions should be complied with. When these are attended to, the claims are at once taken cognizance of by the Deputy Commissioner and their investigation proceeds with in accordance with the provisions of the Land Revenue Code.

2. This is the practice which

(5) 59.

L.A. 154-95-5.

Proceedings of the Govt of Mysore

Read:—

Petition No 3371 ~~3375~~ dated 28.3.96 and another from Gowre Gauda son of Ere Gauda Belur Taluk appealing against the order of the Dy Comr Hassan Dist refusing the petitioner to a regular suit for ~~in the establishing~~ ~~matter of~~ his claim to the Patelli of Hosahalli village.

2. Cover Letter No 7 dated 3rd July 1897 from the Dy Comr Hassan Dist reporting on the above, from which

~~Order thereon~~

the facts appear to be briefly as follows!

Annaliga Gauda the petitioners uncle was the registered Patel of the village. He died in 1874, and his only son then living having refused to act Patel, one Dyave Gauda

Draft for order as to be submitted
Sub Collector
M 23/7/97

Approved
25-7-97

Let there be allowance of Two Rupees
Prints Wire
M 28/7/97

Passed
28/7/97

the form of claims require
at once to be taken cogn-
izance of by Revs Courts in
a formal enquiry the Evidence
has, under Sec 201 of the Code
to be recorded by the Officer
Conducting the investi-
gation. The informal
Enquiry now conducted
by Amildars and the a-
massing together of un-
necessary and irrelevant
papers in a large file
of papers is no-where
authorized and there is
no reason to continue
this irregular practice.
When claims are thus filed,
the provisions of the Stamp
Laws have also to be com-
plied with. In this view
referring a claimant
to a regular suit
does not appear to be
a correct mode of dis-
posing of the claim, and
this proceeding may

(80)

prevails in this District and it seems to me that there is no informality or irregularity in it.

I have the honor to be
Sir
Your most obedient Servant

M Narain Rao

Deputy Commissioner
Tumkur District

ring the petitioner to a regular suit. Para 3 of Section XLIII of Land Revenue Rules requires that the "enquiry in respect of matters falling under clauses a, e, f & g shall be formal" and in the next paragraph, it is laid down that all "cases involving Mirasi Hug— of village officers" are not cognizable by the Amildars. These suits or claims are directed to be instituted before the Dy Collr. In para 2 of the same section it is prescribed that "the provisions of the Limitation Act shall also be held applicable to revenue suits."

2. The practice of receiving loose and informal petitions both by Amildars and Dy Collrs seems to be irregular. All such matters when brought forward in

ablish Reg. of 1864

having no hereditary claims
~~connected with the family~~
of the deceased, ~~was living~~
~~the duties of the patelship~~
was confirmed to him dur-
ing the Fiji settlement
in 1880. He continued in
office till his death in 1893,
when his widow prayed that
her eldest son Dyaee Ganda
aged 10 years, might be appointed
Registrar and that during
his minority Ere Ganda,
petitioner's younger brother
might and be appointed Gumasta.
The petitioner then presented
~~petitioned to the annulling~~ ~~Lordships~~ the patel's
~~his claims~~ and begged that
he might be appointed
Patel. ~~But on his claim~~
and his last (your) recommendation
the Dy Comr ordered Enquiry
~~his widow's prayer~~
and referring the petition
to a regular suit. Petitioner
has appealed ~~to~~ against the order.

Government observe
that there seems to be
no authority for refer-

offended as hereditary
formerly appointed and
began receiving pay
from the year 1880

on the ground of his relationship
the nephew of Hanmanta Ganda
Regular Patel
according to the Bom

The annulling and declaring
the petitioner's claims and
of the patels in the name of the eldest

(Panel
Vide

Order Recom

4/407-14
C/87

21/97 1897-98 3075 2/2 217.

From The Deputy Commissioner Shimoga District

To The Secretary to the Govt of Mysore General and Rev Depts.

Dated 30th October 1897.

Despatched

Received

General No. 5-21

No. 423

Enclosure No. /

With reference to Govt. No 1407-14 Pet 101 of 31st July/97 submits opinion on the practice of referring the parties to regular suits regarding hereditary Inams.

Petition 4/11/97

Rec'd 3/11.

DF 21-9-97 put up.

Submitted 3/11/97

3/11/97.

complete the open file and remarks & Kadu, Hassan & Mysore

M 8/11/97.

and drafted K 10/11/97

84

No. 521 a/
423

88

Deputy Commissioner's office
Shimoga District
Shimoga 30th October 1891.

To

The Secretary to the Government
of Mysore
General and Revenue Depts.

Sir,

With reference to the order of Government calling for observations on the practice of referring claims concerning village hereditary offices to Amildars, I have the honor to submit my views as follows:—

2. The matter is referred to in section 221 of the Code as a 'claim', which is said to be outside the jurisdiction of Civil courts. Curiously the Code does not say by whom these cases are to be decided, but Rule 43 sub section 3 lays down that all such cases are adjudicable by Revenue officers. Sub section 4 says that "all cases involving miras huck

manner lead to complicated questions of limitation. Before however final orders are passed in this matter, it is desirable to ascertain the views of Dy Comrs who are accordingly requested to submit their observations at an early date.

"By order"

Dft
C2

Mr Secy
M 23/7/97

To the Dy Comrs of all Districts.

RHL
22/7/97

Proceedings of the Govt of Bombay
L.A 154-95-6.

Read:—

Petition No 33 of dated 28-3-96 and another from Gowda Gonda son of Eregonda Belur taluk, appealing against the order of the Dy Comm. Hassan dated referring the petitioner to a regular suit for establishing his claim to the Patil of Hosa halli village

2 Letter No 7 of 3rd July 97 from the Dy Comm. Hassan in reference on the above from which the facts appear to be briefly as follows:—

Hannalige Gonda the petitioner's uncle was the registered Patel of the village. He died in 1874, and his only son then living having refused to be Patel, one Dyave Gonda, having no hereditary claims, officiated as Patel though not formally appointed and began to receive Patigi from the year 1880. He continued in office till his death in 1893, when his widow prayed that her adopted son

appointing a successor as soon as possible. We cannot, therefore, indefinitely wait till some party interested either seizes it or lodges a claim for it. Even if a party seizes it, his title will not be complete till it is recognized by the Deputy Commissioner.

6. The Patel has left an only son, who is of age and competent for the post. The son presents a petition to the Amildar. It is a 'claim' though not a disputed one yet. Should the Deputy Commissioner himself hold a formal inquiry? Probably the Amildar knows the son or he can easily ascertain the relationship: but a formal record is necessary. In a case like this, I see no harm in the Amildar receiving the petition or the Deputy Commissioner referring one he receives to the Amildar.

7. While the Amildar is inquiring into the matter in an informal manner, another person comes forward and claims the Patali or denies the petitioners claim saying that the petitioner had been given away in adoption. There is a disputed claim in which these two become opposite parties. At this stage, the Amildar should stop proceedings: and report to the Deputy Commissioner who may either refer the parties to a regular suit or regard this itself as a dispute before him and hold a formal inquiry.

8. Whether a proceeding is meant by the parties initiating it as a suit or as an informal petition depends, I think, on the intention of the parties. A man may be willing enough to ask for a thing in an informal way but he may not like to take the trouble of

Dyanegonda aged 10 years might be appointed Registerdar ——— and that during his minority Eregonda, petitioner's younger brother might be appointed Guardian. The petitioner then presented a petition to the Amildar urging his claim to the patel on the ground of his being the nephew of Hanmaraja Gowda Registerdar Patel in 1864; according to the Basabeluthi Reporter of 1864. and begged that he might be appointed Patel on the ground of his being the nephew of Hanmaraja Gowda Registerdar Patel in 1864. The Amildar conducted an enquiry into the petitioner's claim and submitted the records to the Sirsi Sirkar who directed in 1936 the registry of the patel in the name of the eldest son of the deceased patel Dyanegonda, and referred the petitioner to a regular suit. Petitioner has appealed to Govt against the above order;

## Order

Government observe that there seems to be no authority for referring the petitioner to a regular suit, Para 3 of

68

L.Q. 154-95-7

*Proceedings of the Government of Mysore, Petition, dated 31st July 1897.*

READ :—

Petition No. 3371, dated 29th March 1896, and another from Gavregauda, son of Eregauda, Belur taluk, appealing against the order of the Deputy Commissioner, Hassan district, referring the petitioner to a regular suit for establishing his claim to the pateli of Hesahalli village.

2. Letter No. 7, dated 3rd July 1897, from the Deputy Commissioner, Hassan district, reporting on the above from which the facts appear to be briefly as follows :—

Honnaligegauda, the petitioner's uncle, was the registered patel of the village. He died in 1874 and his only son then living having refused to be patel, one Dyavegauda having no hereditary claims officiated as patel though not formally appointed and began to receive potgi from the year 1880. He continued in office till his death in 1893, when his widow prayed that her eldest son Dyavegauda aged 10 years might be appointed registerdar and that during his minority, Eregauda, petitioner's younger brother, might be appointed gumasta. The petitioner then presented a petition to the Amildar urging his claims to the pateli on the ground of his being the nephew of Honnaligegauda, registerdar patel, according to the Barabaluti Register of 1864, and begged that he might be appointed patel. The Amildar conducted an enquiry into the petitioner's claim and submitted the records to the Deputy Commissioner who directed in 1896 the registry of the pateli in the name of the eldest son of the deceased patel Dyavegauda and referred the petitioner to a regular suit. Petitioner has appealed to Government against the above order.

---

No. 1407-14—PET. 181, DATED, BANGALORE, 31ST JULY 1897.

ORDER THEREON.—Government observe that there seems to be no authority for referring the petitioner to a regular suit. Para 3 of Section XLIII of the Land Revenue Rules requires that the "enquiry in respect of matters falling under clauses *a*, *e*, *f* and *g* shall be formal," and in the next paragraph, it is laid down that all "cases involving *mirasi hak* of village officers" are not cognizable by the Amildars. These suits or claims are directed to be instituted before the Deputy Commissioner. In para 2 of the same section, it is prescribed that "the provisions of the Limitation Act shall also be held applicable to revenue suits".

2. The practice of receiving loose and informal petitions both by Amildars and Deputy Commissioners seems to be irregular. All such matters when brought forward in the form of claims require at once to be taken cognizance of by Deputy Commissioners. In a formal enquiry the evidence has, under Section 201 of the Code, to be recorded by the Officer conducting the investigation. The informal enquiry now conducted by Amildars and the massing together of unnecessary and irrelevant papers in a large file of papers is nowhere authorized, and there is no reason to continue this irregular practice. When claims are thus filed, the provisions of the Stamp Laws have also to be complied with. In this view, referring a claimant to a regular suit does not appear to be a correct mode of disposing of the claim, and this proceeding may moreover lead to complicated questions of limitation. Before, however, final orders are passed in this matter, it is desirable to ascertain the views of Deputy Commissioners, who are accordingly requested to submit their observations at an early date.

C. SREENIVASIENGAR,
*Secy. to Govt., Gen. & Rev. Depts.*

To—The Deputy Commissioners of Districts.

Exd.—H.A.R.

1897-98

# GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

*Dated* 31st *July* 1897

No. 1407-14 Pet. 181

Drawing the attention of the Deputy Commissioners to Section XLIII of the Land Revenue Rules, and calling for their views in regard to the existing unauthorized practice of referring the parties to regular suits when petitions are presented to them regarding hereditary haks, &c.

M.G.J.P.B.—10-8-97—120

451

(7)

Gen. Serial No. 313

1897

REVENUE DEPT. 71
2079
SEP 17
EWAN'S OFFICE

From The Secretary Commissioner of Police
L. A. Nolan Detective

To The Secretary to the Government of Victoria
Treasurer & General Auditor

Dated 14.9.97.

Despatched 16.9.97

Received

Cargo Enclosures No. Nil

General No. 13

No.

Submitting a report with the existing practice of receiving the banks to receive cash regarding the library banks &c.

Returned 17/9

Reply put up

AK 6/10/97.

Dr 21 of 97 with Gle No: 3075 from D.C. Chamaraja P217 was submitted to the Asstt Secy. on 18-11-97. The above file was linked with Proc. No. 3419 P-529 of 22/12/91.

Dr 21 of 97 relating to the subject has been received from the Meeting clerk Hqrs. esp.

12/97. Noted -
Mll
'97

I want the old papers

16/12/97

4268
1897-98. Dr 21/97.
Ret 311

(12)

From The Dy Commissioner
L.Q. 154-95-16.

Mysore District.

To

The Secretary to the Government of Mysore,
General and Revenue Departments.

Dated 10th December.
Despatched
Received

Enclosures No. —

General No. 692

Opining that it would be convenient to hold a preliminary summary enquiry in cases of petitions regarding hereditary knocks &c, to avoid cost and delay.

15.12.97

72

Kolar Deputy Commissioner's Office

Dated 10th September 1867

To

The Secretary to the Government

of Mysore —.

Revenue and General Departments.

Sir,

Adverting to Government proceedings No 1507-16 dated 31st July 1867, calling for report in regard to the practice of referring the parties in regular suits wherein petitions are presented by them to establish hereditary title, I have the honor to state that questions relating to the appointment of claimants on the death or removal of an office holder are disposed of in a Miscellaneous enquiry and the nearest and most competent relatives are nominated and others referred to a regular suit or appeal if so disposed —. In such cases applications are entertained by or referred to the Amildars, who after the necessary enquiry submit the proceedings for the orders of the Deputy Commissioner —. This procedure is adopted with a view to save the parties the expense, delay and inconvenience that would be occasioned, if the whole of the enquiry was conducted before the Deputy — Commissioner himself in a formal manner and as a regular suit.

2 But when the right of the first finder is contested by a claimant on special grounds, he is referred to a regular suit, and his claim is made the subject of a formal enquiry before the Deputy or Assistant Commissioner in such cases the provisions of the Standard Limitation Act are also duly attended to. This is the practice obtaining in this District and I believe it is in accordance with the views expressed in the Government Circular — — cerning under acknowledgment — —.

I have the honor to be
Sir,
Your most obedient servant
Thangavelu Iyyar
Deputy Commissioner
Salem District

(13) 21 797 96. 4686 / Pet 348.

1897.

From The Dy Commissioner
Kadur Dist
L. R. 154-95-15

To The Secretary to the
Govt of Mysore,
General & Revenue Depts

Dated 23d

Despatched 27th December

Received

General No. 435 1897-98.
No.

Enclosure No.

Expressing opinion in re
gard to the existing prac-
tice of referring parties to
regular suits when petitions
are presented regarding here-
ditary haks, &c-

Pet
29/12/97

Read
3/1/98.

DT 21 797. re haks. stating that the
subject is put up-

AH
3/1/98. Subd
4/1/98 MG

DT
5.1.98

Shew a reminder,
Narasin DJ Coorg
4/1/98

Ref 1897
Ref Patents

Mr 6/10/97

(15)

Forwarded 6-10-97 DJK

The question of Alaska the delay in despatches

My Secretary, Hastam, Mysore + Wales despatches

Mr 15/10/97

Read Draft'd 15/10/97

457

REVENUE DEPARTMENT
1897 2293
Ref 179

From The Secretary Office
Simla, August 1897.

L. Q. 154-95-10.

To The Secretary to Govt
General and Revenue Deptt

Dated 21st
Despatched 23 September
Received
General No. 2 S. 2
No.

Enclosure No.

Note, reference to Reminder No 3015 Ref 415 dated 10th instant calling for early report with reference to G. O. No 1427-14 Ref 181 dated 8th July last, drawing attention to Section XLIII of the Land Revenue Rules and inviting opinion in regard to the existing practice of referring the parties to regular suits where petitions are presented, regarding hereditary rights, for the honor to state that the order of Government in question was received in this office only on the 9th instant, through dated

X Why?

3/24 July and the undersigned await the decision of the Assistant Commissioners; on receipt of which the report called for will be submitted.

Deputy Commr
Lieut Stirling

Reps unexceptionable from S.C
Nos 2283 of 1879 & 2079 of 1862 from Dist J.
Katur & Kolar respectively.
Submitted to Govt on 6/10/97
AK 8/10/97

Calendared with pet 192 from
Dy Chikkaballapur. AK
9/10/97

Govt letter date
submitted to Govt.
Returned from Govt with the
original file and sent
15/10/97

Award statements
My 5/10/97

REVENUE DEPARTMENT
No 2432
Oct 188 1397
6 OCT 97
From The Secretary
DEWAN'S OFFICE

376.
Despatch
28.9.97
Commissioner -
Bangalore District.

L-62.154-95-11.

To The Secretary to the
Government of Mysore -
Genl and Rev. Depts -

Dated 22 September 97.
Despatched
Received
General No.
No. 322

Enclosure No.
Govt Proc: No 40-14 97 3 dated
July 1897.

Submits his views
regarding the existing
unauthorized practice
of referring the parties
to regular suits when
petitions are presented
to DCs/Tahsildars regarding here-
-ditary disputes &c.

Petition Received
Feb 6/10/97

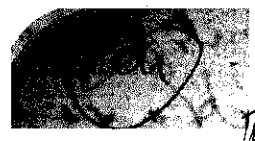
(14)

21/3/97
Pet 450

7095
Pet 532

Gen. Serial No. 30.]

1897. 981.



Rec'd the file on about the 12th
MY

From The Deputy Commissioner, Hassan District.

To The Chief Secretary to the Government Dewan of Mysore. General & Rev: Departments. Bangalore.

Dated 30th March 1898.
Despatched "
Received

Enclosures No. Nil

General No. 971
No.

In reply to No. 1407—14 dy 31st March 1897
Pet: 184

SUBJECT.

Submitting opinion in re. - ard to the practice of referring the parties to regular suits when petitions are presented regarding hereditary haks &c.

---

*References*—(to be entered only in the Dewan's Office).

Petition

1/4/98.

Rec'd 2/4

I send the file to the D.H.O for a reference file being forwarded. Let the Head clerk write & D.H.O & get it back MY 4/4/98

Subd to 2nd Counsellor
with office note
MY 29/4/98.

Ans.
4.98.

No. 971

(26)

Deputy Commissioner's
Hassan District
to
Dated, Hassan, 3. March

From,

B. G. Krishnamurthy Es
Deputy Commissioner
Hassan District

To

The Secretary to the
Government of Mysor
General and Rev. Depa
Bangalore

Sir,

With reference to Gov
-ment Proceedings No. 1407—
Dated 31st July 1877, drawing
-tion to section XLIII of the
Revenue Rules and calling
views in regard to the pra
of referring the parties to
suits when petitions are
-sented, regarding hered
-haks, I have the honor
state that I fully agree

77.

No 322

Deputy Commissioner's Office

Umballa District

Dated, Umballa, 22nd September 1897.

To

The Secretary to the Government
Religious, General and Revenue
Departments.

Sir,

I have the honor to forward Government Proceedings No. 7407-14 dated the 31st July, 1897 (Received on the 2nd September 1897), I have the honor to state that on the receipt of a vacancy in respect of a hereditary appointment involving Miraci work, an enquiry is held by the Collector with the object of ascertaining, which of the heirs of the last holder of the office is entitled to succeed. If during such enquiry, all persons who deem themselves entitled to succeed, set forward their claims, the claims of these persons are recorded and the most eligible person is recommended

Deputy Commissioners office
Chitaldrug district
dated 30th ~~1st~~ September 1897
L.Q. 154-95-12

To : The Secretary to the Govern-
ment of Mysore Revenue
and General Departments

Sir.

With reference to Proceedings
of Government No. 1407-14 Pet. 181 dated
31st July last I have the honor
to state that a distinction has
to be made between claims
presented for appointment to
hereditary offices when vacancies
occur and have to be
filled up and those made for
the removal of persons actually
in possession of the office.
In the latter class of cases
regular suits are invariably
filed and are enquired
into by the Assistant

(10) 8

2501
Pet 192

Gen. Serial No. 30.]

189 7-8

From The Deputy Commr
Chitaldrug

To

The ~~Chief~~ Secretary to the Government
~~Dewan~~ of Mysore.

Revenue & General
Depts.

Dated 30th
Despatched 2nd
Received 2nd September 1897

Enclosures None.

General No. 330
No. 312

In reply to

SUBJECT.

Submitting a statement called for regarding the present practice of holding the inquiry into the claims of Patels &c and offering certain suggestions in the matter —

References—(to be entered only in the Dewan's Office).

Pet

7-10-97 Please see the remarks on Pet-188-

AK 8/10/97.

Commissioners and against the decrees of these Assistant Commissioners an appeal lies to the Deputy Commissioner. In enquiries into this class of cases the procedure is very nearly the same as that laid down in the Civil Procedure Code and initial Court fees and process fees are regularly paid. In the former class of cases the enquiry is held by the Amildar, and proceedings sent up for the orders of the Deputy Commissioner. No Court-fees are levied in such cases and it is found necessary even in this class of cases in respect of claims of a complicated nature to pass an ad interim order and

* There is a good deal of work performed for which fees cannot be levied as process-fees

refer the claimants to a 4/2
regular Suit. It is not possible
to conduct all such enquiries
before the Assistant Commissr.
or the Deputy Commissioner
and the practice should I
am of opinion be allowed
to Continue. To mix up
the ordinary routine work
of filling up a vacancy and
the adjudication of a disputed
right in respect of that office
will I apprehend, result
in the creation of complic-
-ations which it is not at
all necessary to give room
for.

I have the honor to be
Sir.
Your most Obedient Servant
[illegible]
Asst Deputy Commissioner

of village officers are not cognizable by Auditors" which I believe should be construed as "no cases involving such rights are cognizable". The suits or claims in such cases should be instituted before the Deputy Commissioner or Assistant in charge of a Taluk"

3. The way in which this matter is introduced — in connection with the jurisdiction of Civil Courts, limits the manner in which the various terms used without definition — Suit, claim, case — should be understood. Civil Courts deal only with disputed claims, i.e. those in which one party claims and another party either 'counterclaims' or opposes. In my opinion, the rule about the necessity of holding a formal inquiry is meant to apply only to such disputed cases, as would, in a Civil Court, be viewed as suits.

4. In the 2d paragraph of the Proceedings calling for this expression of opinion, the practice of receiving loose and informal petitions is condemned, and it is suggested that all matters when brought forward in the form of claims should be taken cognisance of by Deputy Commissioners. Unless I have altogether failed to grasp the exact purport of this, I humbly think that the prohibition is too wide and not precise in its terms. To make my difficulties clear, I would take a concrete case and illustrate the present practice and the consequences of a more stringent rule applied to it.

5. A petition has died and the office is rendered vacant. Under the right of succession to private property, the Government is interested in

(113)

Honnaliga Gauda Rey
-ar patel according to
Barabaloste Register of 186
and begged that he mig
be appointed Patel.

The Amildar conduct
an enquiry into the pet
-tioner's claim and sub
-mitted the records to the
Dy: Commr who directe
in 1896 the registry of the
Patels in the name of t
eldest son of the decea
patel Dyave Gauda
referred the appellant
a regular suit.

Decision

Government declin
to interfere with the Depu
Commissioner's order re
-ing the patels in fav
of the Respondent and
referring the appellan

to

to a regular suit..

No. 679 / 28 P.R. 21-97 } 28.9.01.

Copy of the above is forwarded to the Dy. Comr. of Hapaan together with the Vernacular records received with his letter No. 7 dated 3rd July 1897.

(114)

Secretary to Govt.
Gl. & Rev. Depts.

Ch.
20/9/01.

regularly contesting for it in a Suit,
with the attendant necessity of having
to pay heavily in case of failure.
Referring the claimant to a regular suit
is a step well understood by parties
and is not likely to be regarded as a
hardship. They know well enough, I
should think, that there are rules con-
cerning limitation &c. when they spend
time in informal petitions; and would
take care to file a regular claim when
they have a good one.

9. If the orders to be passed by
Government would meet the difficulties
above suggested, I see no objection
in issuing a prohibition against
the present practice. But I am
not sure if the practice is very
much at variance with the rule

10

as above interpreted and limited.

Copy of Supra Sub-Division officer's letter dated 27th Inst.
on the subject in enclosed herewith to the honorable

Sir,

Your most obedient servant

H. Macpherson

Offg Deputy Commissioner
Kamrup District

No 116

Sagar Sub-Division office
Dated 27th October 1897 91

To

The Deputy Commissioner
Shimoga District

Sir,

Referring to your memo No 849 of the 20th September 1897 forwarding for my opinion a copy of the Proceedings of Government No 1407-1/Rev dated the 31st July 1897 in regard to the practice of referring parties to regular suits when petitions are presented to Deputy Commissioners regarding hereditary rights, I have the honor to submit the following observations:—

2. When a party presents a petition requiring his claim to hereditary village office, there is, I am afraid, a tendency to refer it to the Amildar for report, or for inquiry and report. This is certainly irregular and destructive of no good, because any inquiry the Amildar might make would be ex parte and cannot therefore form a basis of any decision by the Deputy Commissioner.

3. If the petition be not in the shape of a plaint, and not duly stamped as such, the proper course seems to be to return it for amendment and resubmission duly stamped. This would save the claim from the operation of the law of limitation.

4. When the petition is in the shape of a plaint, or when it is so amended duly amended and stamped, the only course left seems to be to register it as a regular suit and proceed with the case in accordance with the provisions of the Code of Civil Procedure.

I have &c.

Sd/ C. R. Sathyanathan
Special Extra Assistant Commr
in charge of Sapper Subdn.

"Copy"

H. Macpherson
Asst Commissioner
Kandy

motion on account of administrative necessities be convenient to avoid cost and delay, though the actual decision would rest with the deputy Commissioner.

2. All other cases falling under Clause (a), Section 221 of the Land Revenue Code may be taken on regular file and disposed of after formal enquiry.

I have the honor to be
Sir,
Your most obedient Servant,

E Hamilton
Dy Commissioner
Mysore District

Confd
Ward

No 4556.

Deputy Commissioners Office - Kadur Dist.
Dated Chickmagalur, 23rd Dec., 1897

From,

The Dy Commissioner
Kadur District.

To,

The Secretary to Govt
General & Revenue Depts

Sir,

With reference to G.O. No. 1397-411, Rev. 161 dated 31st July last, received in duplicate, drawing attention to section XLIII of the Land Revenue Rules, and calling for views of the Deputy Commissioners in regard to the existing practice of referring parties to regular suits when petitions are presented regarding hereditary haks, I have the honor to report that the present practice, so far as this District is concerned is, that, when miscellaneous petitions relating to hereditary haks of village offices as also to such other matters not falling under para 4 of Rule XLII are presented to Amildars, they are invariably referred to this office for orders.

2 Such petitions are duly enquired into by Amildars under orders from this office and reported upon with records, for final disposal

annuncto. Such miscellaneous cases being chiefly of the following ——————— classes:-

(a) Petitions from present officeholders praying for registry of hak in favour of a son or other relative, either on account of infirmity or insufficiency of the person to the work;

(b) Petitions for appointment or Entertainment of Shanbhogi-inamdars or Patili-inamdars, in cases of vacancies. Cases falling under classes (a), (b) and (d) are dealt with under para 5 of Rule XXIII.

(c) Petitions complaining of non-payment by Inamdars of the Potgi share or maintenance allowance to the registered hakdars (widows or minors) where such has been authoritatively fixed;

(d) In cases of removals from office of Shanbhogs and Patils for offences entailing forfeiture of hereditary hak where summary enquiry becomes necessary as to nomination of persons to officiate as Shanbhogs or Patils, or to other village service, as the case may be.

3 In practice in this District questions arising in regard to ordinary claims preferred on the miscellaneous side, such as those enumerated in the preceding para, are not disposed

of a regular suits, but by orders made after en-
quiry through Amildars; while cases of disput-
ted or contentious claims to hereditary village
Watas are disposed of as regular suits under para
4, Rule XLIII.

4. In such regular, revenue suits, instituted before me as Deputy Commissioner, requiring formal enquiry and decision the cases are either taken up and disposed of by myself or are transferred to an Assistant Commissioner for adjudication, of course in conformity with the law of succession so far as it can be consistently applied. In both cases the provisions of the Code of Civil Procedure with regard to the provisions of the Limitation and Stamp Acts are invariably applied to such suits.

This practice being in accordance with the letter and spirit of the provisions of the Land Revenue Rules, I am of opinion that no modification of the rules in force or alteration in procedure in dealing with village hereditary Watan suits called for.

I have the honor to be
Sir
your most Obedt Servant.

Deputy Commissioner

the observations made by Government in the Proceedings referred to.

2 — Claims for village officers fall under clause (a) of Section 221 of the Mysore Land Revenue Code. Under para 2 of Rule XLIII, the provisions of the Code of Civil Procedure, regarding the investigation of such claims, and the provisions of the Limitation Act are applicable. These claims are generally of two kinds.

(1) When a vacancy occurs owing to the death of the office-holder and the claim is put forward by the son of the deceased or his legal representatives.

(2). When the claim is put forward by others to oust the officiator or his heirs.

3 - Though the provisions of the Court Fees Act do not make any distinction between the above cases in regard to the levy of a fee of Rupees, I am not in favour of levying the full amount in the first Case, but would only levy annas eight and treat it as an application coming under Article 1(b) of Schedule II of the Court Fees Act. In the second case, I would levy Rupees 10 as provided for in Article 17(VI) of the same Schedule and treat it as a Plaint.

4 - In both the Cases, a formal enquiry will be held, as laid down in the Revenue

Revenue Code and the Rules framed thereunder, and the matter disposed of on merits by the officer conducting the enquiry, who shall be the Deputy Commissioner, an Assistant Commissioner placed in charge of the Sub-Division or Assistant Commissioner to whom the Case may be transferred by the Deputy Commissioner. —

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner
Hazara District

~~(15)~~ (16)

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Before the Government Agent Kilyos

Present

No. P. 154-95-18.

P. P. Maniakakis Esquire B.A.E.

and

G. Spencer Lycett Esquire.

Appeal No. 163 of 1895-96.

Appellant

Gauri Gauda, son of Eregauda, Arakally, Salem Taluk

Respondents

Ayavi Gauda son of Ayavu Gauda.

Subject.

Appeal against the order of the Subordinate Magistrate of Attur, dated 20th March 1896, directing the appellant to pay the sum of Rs. 65 as the amount due on account of the Public Office of Arakally village at the Seer Land.

Facts of the case

The Honourable Gauda the appellant and the

In appeal from the order of the 1st Class Magistrate.

20/9/07

Rd. 21/9/07 Appeal 65

Encl. petition

CK 21/9

was the registered patel
of the village - He died in
1874 and his only son then
living having refused
to be patel, one Ayane Sonda
having no hereditary claims
officiated as patel though
not formally appointed
and began to receive
patgi from the year 1880.
He continued in office
till his death in 1895 when
his widow prayed that
her eldest son Ayane Sonda
aged 10 years might be
registered as patel & that
during his minority her
younger brother Sire Sonda
might be appointed manager -

The appellant then presented
a petition to the Collector
urging his claims to the
patel on the ground of
his being the nephew of
Hanmaiga Sonda